

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JULIE MOYER,

Plaintiff,

v.

OPINION and ORDER

KILOLO KIJAKAZI,
Acting Commissioner of Social Security.

21-cv-142-jdp

Defendant.

Dana W. Duncan, counsel for plaintiff Julie Moyer, moves under 42 U.S.C. § 406(b) for a fee award of \$10,835. Dkt. 19. Moyer was awarded \$61,893 in past-due benefits. Dkt. 19-2. Counsel's requested fee represents less than 25 percent of Moyer's past-due benefits, so it falls within the amount allowed by statute and the parties' fee agreement. Dkt. 19-1. Counsel was previously awarded \$4,800 in fees under the Equal Access to Justice Act (EAJA). Dkt. 18. Counsel asks the court to award only the net amount of \$6,035, the difference between the total fee award and the EAJA award that he already received, and allow him to retain the EAJA award.

The Commissioner doesn't oppose the fee amount, which the court agrees is reasonable. Counsel seeks a fee award for 19.7 hours of attorney time at the hourly rate of \$550. Dkt. 19. This court has approved higher rates before under § 406(b). *See, e.g., DeBack v. Berryhill*, No. 17-cv-924-jdp, Dkt. 31 (W.D. Wis. May 4, 2020) (approving effective rate of \$800 per hour); *Fischer v. Saul*, No. 17-cv-327-jdp, 2019 WL 5310676 (W.D. Wis. Oct. 21, 2019) (approving effective rate of \$641 per hour). Counsel's requested fee is within bounds of what is reasonable in light of counsel's experience, risk of non-recovery, the work performed, the results obtained, and the amounts awarded in similar cases. The court will grant counsel's motion.

ORDER

IT IS ORDERED that:

1. Counsel's motion for attorney fees under 42 U.S.C. § 406(b), Dkt. 19, is GRANTED.
2. The court approves representative fees under § 406(b) in the gross amount of \$10,835.
3. Counsel may retain the \$4,800 previously awarded in EAJA fees in partial satisfaction of the § 406(b) award.
4. The net amount of \$6,035.00 shall be disbursed by the Commissioner from any of plaintiff's past-due benefits being withheld and in accordance with agency policy.

Entered October 3, 2023.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge